

SOUTH GIPPSLAND SHIRE COUNCIL

# Council Meeting Minutes

19 April 2023

**Council Meeting No. 481  
Council Chambers, Leongatha  
Commenced at 2:00 PM**



# minutes



*South Gippsland  
Shire Council*

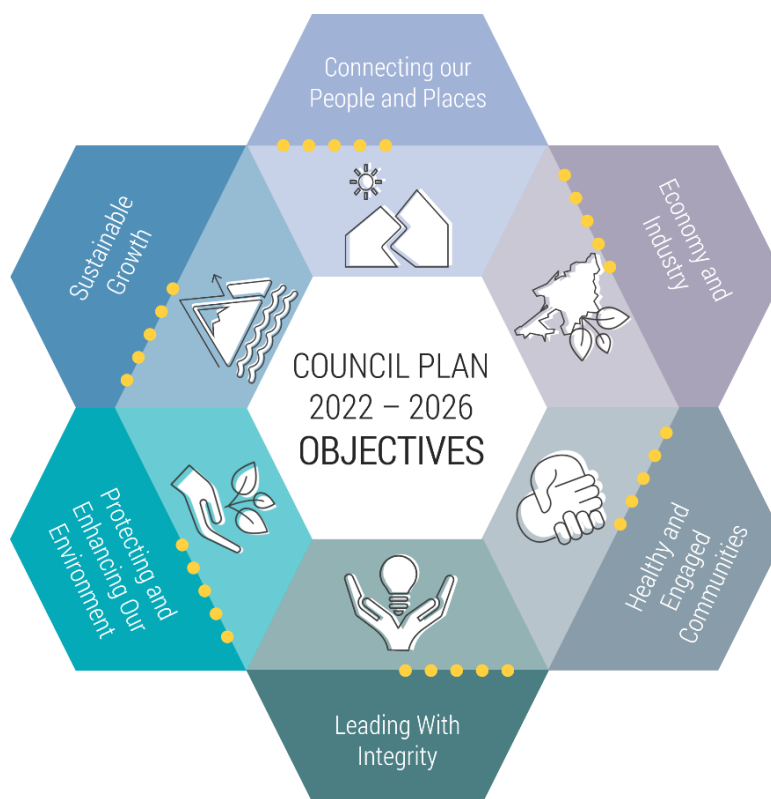
*Come for the beauty, Stay for the lifestyle*

## OUR COUNCIL VISION

***We care deeply about our people, the land and future of South Gippsland.***

***Our vision is to support the whole Shire in creating economic, environmental and social prosperity for this and future generations.***

The Council Agenda relates to the Strategic Objectives of the *Council Plan 2022-2026* indicated in this diagram:



### Privacy

Council is required to keep minutes of each Council meeting. The minutes contain details of proceedings which may include personal information about community members disclosed as part of presentations, submissions and questions. The minutes of Council meetings are a public record and can be inspected by members of the public.

The Council Meeting is streamed live, recorded and published in accordance with Council's *Live Streaming in Council Meetings Policy*.

Access to the live stream is available on Council's website – [Link](#).

A copy of the *Policy* is located on Council's website - [Link](#).

## PRESENT

COUNCILLORS:	<p>Councillor Nathan Hersey, Mayor          Councillor Clare Williams, Deputy Mayor          Councillor Sarah Gilligan          Councillor Scott Rae          Councillor Mohya Davies          Councillor Jenni Keerie          Councillor Michael Felton          Councillor John Schelling          Councillor Adrian Darakai</p>
NOT PRESENT:	
OFFICERS:	<p>Kerryn Ellis, Chief Executive Officer          Allison Jones, Director Performance and Innovation          Tony Peterson, Director Sustainable Infrastructure          Lucas Gardiner, Acting Director Economy &amp; Community          Janice Pouw, Coordinator Governance          Natasha Berry, Corporate and Council Business Officer</p>

## SOUTH GIPPSLAND SHIRE COUNCIL

Council Meeting No. 481 of the  
South Gippsland Shire Council  
Wednesday 19 April 2023  
Council Chambers, Leongatha commenced at 2:00 PM

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**Kerryn Ellis**  
**Chief Executive Officer**

## **1. PRELIMINARY MATTERS**

### **1.1. LIVE-STREAMING COUNCIL MEETING DISCLAIMER**

This Council Meeting is being streamed live, recorded and published in accordance with Council's Live Streaming in Council Meetings Policy.

Access to the live stream through Council's Internet is an option to view the 'open' component of a Council Meeting. Link to the Live Stream on Council's website: [Live Streaming | Live Streaming | South Gippsland Shire Council](#)

The Chair and/or the CEO have the discretion and authority at any time to direct the termination or interruption of live streaming. Such direction will only be given in exceptional circumstances where deemed relevant. Circumstances may include instances where the content of debate is considered misleading, defamatory or potentially inappropriate to be published.

Today's Meeting is being streamed live as well as recorded and published on Council's website.

Thank you

### **1.2. WELCOME TO THE COUNCIL MEETING**

#### ***Public Questions***

In accordance with *Governance Rules (C82)*, clause 56.4(d) the placement of public questions has now closed. Questions must be received prior to the commencement of the Council Meeting and placed in the receptacle at Governance Officers table. Questions received after the commencement of the Meeting will be considered at the next Council Meeting.

### **1.3. OPENING PRAYER**

As we gather here from diverse backgrounds and beliefs, may we hold privilege with good care and trust. As we deliberate and discuss, may we be wise in our discernment, fair in our decisions and visionary in our planning. May we be guided by our common goal of a strong and united South Gippsland.

#### **1.4. ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS**

We acknowledge the Bunurong and Gunaikurnai people as the Traditional Custodians of South Gippsland and pay respect to their Elders, past, present, and future, for they hold the memories, traditions, culture, and hopes of Aboriginal and Torres Strait Islander people of Australia.

#### **1.5. APOLOGIES**

**Nil**

#### **1.6. CONFIRMATION OF MINUTES**

##### **RECOMMENDATION**

**That the Minutes of the South Gippsland Shire Council Meeting No. 480, held on 15 March 2023 in the Council Chambers, Leongatha be confirmed with an amendment due to a typographical error in the report where the contract number was shown as CON/319 instead of CON/313. The contract name was correct in the report.**

- 1. Correction to contract number for part 3a. in Agenda Item 3.2 – Report - Documents sealed, contracts varied, awarded or extended by CEO – 13 January 2023 to 12 February 2023 - Contracts Awarded, Varied or Extended:**
  - a. 3a to read - CON/313 for the Jones Street Foster Street Reconstruction was awarded to Hugh Patrick Pty Ltd, trading as BJs Earthmoving, November 2022. Variations which exceed the contingency allowance are recommended for works addressing poor ground conditions. A Contract Variation of \$180,000.00 (excluding GST) was approved by CEO on 1 February 2023.**

## **RESOLUTION**

**MOVED:** Councillor Davies

**SECONDED:** Councillor Keerie

**That the Minutes of the South Gippsland Shire Council Meeting No. 480, held on 15 March 2023 in the Council Chambers, Leongatha be confirmed with an amendment due to a typographical error in the report where the contract number was shown as CON/319 instead of CON/313. The contract name was correct in the report.**

- 1. Correction to contract number for part 3a. in Agenda Item 3.2 – Report - Documents sealed, contracts varied, awarded or extended by CEO – 13 January 2023 to 12 February 2023 - Contracts Awarded, Varied or Extended:**
  - a. 3a to read - CON/313 for the Jones Street Foster Street Reconstruction was awarded to Hugh Patrick Pty Ltd, trading as BJs Earthmoving, November 2022. Variations which exceed the contingency allowance are recommended for works addressing poor ground conditions. A Contract Variation of \$180,000.00 (excluding GST) was approved by CEO on 1 February 2023.**

**CARRIED UNANIMOUSLY**



## 1.7. DECLARATION OF CONFLICTS OF INTEREST FOR COUNCILLORS

The *Local Government Act 2020* (the Act), Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor, member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82)* (the Rules), clause 3.0 Disclosure of a Conflict of Interest at a Council Meeting sets out the prescribed manner required to disclose a conflict of interest at South Gippsland Shire Council.

The Rules require a Councillor and/ or staff member who has a conflict of interest in a matter being considered at a Council Meeting to announce before the matter is considered and disclose this in a written notice to the Chief Executive Officer. The details included in the disclosure, explain the nature conflict of interest, whether it is classified as general or material (s.127 and s.128), the name of the relevant person(s) and their relationship to them.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

Council's *Governance Rules (C82)* can be accessed from [Council's Policies](#) webpage.

**Nil**

## 1.8. DECLARATION OF CONFLICTS OF INTEREST FOR STAFF

The *Local Government Act 2020* (the Act), Division 2 sets out the requirements relating to Conflict of Interest. Disclosure of a conflict of interest in respect of a matter to be considered at a Council Meeting is required under section 130(1)(a) and specifically applies to a relevant person being a Councillor, member of a delegated committee who is not a Councillor and a member of Council staff.

Council's *Governance Rules (C82) (the Rules)*, Chapter 5, clause 7, 8 and 9 sets the prescribed manner required for staff to disclose a conflict of interest when:

- Preparing Reports for Meetings
- Exercise of Delegated Power
- Exercise of a Statutory Function

Council staff must immediately upon becoming aware of a conflict of interest provide a written notice to the Chief Executive Officer disclosing the conflict of interest, explain the nature of the conflict and how it will be managed. Upon becoming aware and declaring a conflict of interest, a staff member may not exercise a power or perform a function in the matter. All prepared reports will record that staff member(s) have considered a conflict of interest and include if any, the details of a disclosure.

Failure to comply with disclosures of conflict of interest (s.130) may be subject to penalty points and/ or other disciplinary measures depending on the nature of the conflict.

The *Local Government Act 2020* can be accessed from the Victorian Legislation and Parliamentary documents website at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

Council's *Governance Rules (C82)* can be accessed from Council's Policies webpage.

**Ms Kerryn Ellis, Chief Executive Officer has declared a material conflict of interest in Confidential Agenda Item 11.2. PERSONAL INFORMATION - Chief Executive Officer (CEO) Performance Review - April 2023, as the matter relates directly to her role.**

## 2. OBJECTIVE - HEALTHY AND ENGAGED COMMUNITIES

### 2.1. GENERAL LOCAL LAWS REVIEW - 1ST ROUND CONSULTATION RELEASE

Directorate:	Economy and Community
Department:	Community Health and Safety

#### Council Plan

##### *Objective - Healthy and Engaged Communities*

*The General Local Law 2024 is designed to protect and enhance public health, safety and amenity of the municipality and its residents and visitors. The General Local Law will ensure Council is able to respond to issues and community needs protecting the environment and the health and safety of the community.*

#### EXECUTIVE SUMMARY

The purpose of this report is for Council to consider endorsing the next stage in the review of the General Local Law 2014 to undertaken community engagement as per the proposed community engagement framework.

South Gippsland Shire Council's [General Local Law 2014](#) is due to sunset in April 2024. A new General Local Law 2024 requires authoring, adoption and gazetting by Council prior to this date. The General Local Law review and the drafting process will be governed by the framework [Guidelines for Local Laws Manual](#) and [Resource Book](#), published by the Victorian Government.

Feedback from internal and external stakeholders, Councillors, and the community is essential to be considered when creating the draft General Local Law 2024.

The review of the General Local Law 2014 will be undertaken through a staged approach, with Stage 1 – Internal stakeholder engagement having been completed. The next step is to undertake Stage 2 – Community engagement.

#### RECOMMENDATION

**That Council endorses the next stage in the review of the General Local Law 2014 to undertake community engagement as per the proposed community engagement framework.**

**RESOLUTION**

**MOVED:** Councillor Darakai

**SECONDED:** Councillor Keerie

**That Council endorses the next stage in the review of the General Local Law 2014 to undertake community engagement as per the proposed community engagement framework.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

**REPORT**

As previously noted, Council's current General Local Law 2014 will sunset in April 2024; a new General Local Law 2024 will need to be gazetted by Council prior to this date.

The review will be undertaken through a staged approach. Stage 1 – Internal stakeholder engagement has already been completed and we now move to Stage 2 – Community engagement. Following is the proposed community engagement framework.

Our targeted audience for engagement will include:

<b>Target Audience</b>	
Community	Representative demographic sample
Key external stakeholders	Victoria Police Emergency services & fire agencies DEECA / Committees of Management Traditional owners Community support groups Resident groups Trader groups Building / development industry contacts Environmental groups
Internal stakeholders	Manager Community Health and Safety Local Laws Team Manager Infrastructure Maintenance Manager Planning & Building Services Manager Customer Communications & Advocacy Coordinator Communications & Engagement Manager Infrastructure Planning Manager Open Space & Environment Manager Economy & Investment

Council's Local Laws team, along with the appointed consultant, will lead the community consultation by undertaking a number of community sessions. It is proposed to hold sessions in the following towns:

- Leongatha
- Foster
- Mirboo North
- Nyora

- Korumburra
- Toora/Port Welshpool area
- Venus Bay/Tarwin area

A detailed community engagement framework and research methodology has been developed to guide consultation activities and capture community sentiment. Consultation will take place with the target audience during the period April – July 2023.

The following consultation tools may include via Council's online portal 'Your Say':

- Survey;
- Upload a written submission; and,
- Email a response.

Hard copy options to contribute may include:

- Hard copy survey available at customer service, libraries and upon request; and,
- Write to Council (AusPost)

A communications plan will be developed to coordinate community messaging. Consultation activities will be promoted via:

- Media releases;
- Social media;
- Published on Council's website; and,
- Key external stakeholders contacted directly.

Analysis of data and findings from the consultation will be used to develop the Draft General Local Law 2024 and presented to Council for further discussion in July 2023.

#### **RESOURCES / FINANCIAL VIABILITY**

Stage 2 of the review of the General Local Law 2014 will be conducted within the existing budget of the Local Laws Team. An additional funding request has been made for the 2023/24 FY to complete the review.

## **RISKS**

Risks from the consultation and subsequent development of a new General Local Law are around reputational risk to Council. There is also the risk that the current General Local Laws will sunset if Council fails to develop and gazette the new General Local Laws prior to April 2024.

## **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

## **ATTACHMENTS**

Nil

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

General Local Law 2014

Annual Budget

Council Plan 2022-2026

### **Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

### 3. OBJECTIVE - LEADING WITH INTEGRITY

#### 3.1. PROPOSED LONG TERM FINANCIAL PLAN (10 YEAR PLAN) AND PROPOSED 2023/24 - 2026/27 BUDGET, INCLUDING 2023/24 COUNCIL PLAN INITIATIVES

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

##### *Objective - Leading with Integrity*

*The Financial Plan and Budget, including the 2023/24 Annual Initiatives provide the resources to progress the achievement of the Strategic Objectives and Strategies outlined in the 2022 - 2026 Council Plan.*

#### EXECUTIVE SUMMARY

The purpose of this report is to present the Proposed *Financial Plan 2023/24 – 2032/33 (Attachment [3.1.1])*, and the Proposed *Budget 2023/24 – 2026/27 (Attachment [3.1.2])* including the *2023/24 Council Plan Annual Major Initiatives (Proposed Plans)* for consideration and endorsement for community consultation from 20 April to 12 May 2023.

The Proposed *Financial Plan 2023/24 – 2032/33* and Proposed *Budget 2023/24 – 2026/27* are fundamental documents for Council as they outline Council's future financial and other resource planning to support the delivery of the Council Plan. The *Proposed Budget* notes Council's aspirations for the year ahead (and the following three years), and outlines how we intend to serve the community with the services and facilities that Council provides. The document also includes the *2023/24 Annual Major Initiatives* to progress the *2022-2026 Council Plan*. The scope of the *Proposed Financial Plan* is a period of at least the next ten financial years.

These *Proposed Plans* have been prepared in accordance with the *Local Government Act 2020* (the Act) and reference:

- Financial Plan (s.91).
- Adoption of the Annual Budget (s.94 of the Act); and
- Preparation of the Budget or revised Budget (s.94 and 96 of the Act);



This report recommends that Council formally endorses the *Proposed Plans* in accordance with s.91, s.93, s.94 and 96 of the Act and advertise these documents for community consultation.

Council will provide opportunities for community consultation using a number of engagement methods, from 20 April to 12 May 2023. Details are available online at <https://yoursay.southgippsland.vic.gov.au> or by contacting Council on (03) 5662 9200 during business hours.

## RECOMMENDATION

**That Council:**

- 1. Endorses the Proposed Financial Plan 2023/24 – 2032/33 (Attachment [3.1.1]) and Proposed Budget 2022/23 (Attachment [3.1.2]) including the 2023/24 Council Plan Annual Initiatives (Proposed Plans) for community consultation; and**
- 2. Approves commencement of community engagement from 20 April to 12 May 2022 for these Proposed Plans, in accordance with Council's Community Engagement Strategy 2020 - 2024.**

## RESOLUTION

**MOVED:** Councillor Hersey

**SECONDED:** Councillor Keerie

**That Council:**

- 1. Endorses the Proposed Financial Plan 2023/24 – 2032/33 (Attachment [3.1.1]) and Proposed Budget 2022/23 (Attachment [3.1.2]) including the 2023/24 Council Plan Annual Initiatives (Proposed Plans) for community consultation; and**
- 2. Approves commencement of community engagement from 20 April to 12 May 2022 for these Proposed Plans, in accordance with Council's Community Engagement Strategy 2020 - 2024.**

**CARRIED UNANIMOUSLY**

**[Link to next Agenda Item.](#)**

## REPORT

### ***Proposed Financial Plan and Budget***

The *Proposed Financial Plan* document in **Attachment [3.1.1]** is the Financial Plan for the next ten years and has been prepared in accordance with s.91 of the Act.

The *Proposed Budget 2023/24* and *2023/24 Annual Major Initiatives* document in **Attachment [3.1.2]** has been prepared in accordance with s.96 of the Act.

Both of these documents follow the *Better Practice Guidelines* and *Model Budget* issued by Local Government Victoria (LGV) in accordance with the *Local Government (Planning and Reporting) Regulations 2020*.

Councils are required to set targets for the Local Government Performance Reporting Framework (LGPRF). Section 5 of the *Proposed Budget 2023/24* document (**Attachment [3.1.2]**) includes indicators with a target for the budgeted year and subsequent three financial years.

The *Proposed Plans* that are being presented for endorsement in this Council Meeting include:

1. Financial Plan 2023/24 – 2032/33 (**Attachment [3.1.1]**); and
2. Budget 2023/24 (**Attachment [3.1.2]**) including 2023/24 Annual Initiatives of the Council Plan 2022-2026.

Following, the adoption of these *Proposed Plans* a community consultation process will take place from 20 April to 12 May 2023.

## CONSULTATION / COMMUNITY ENGAGEMENT

The Act requires councils to take an integrated approach to strategic planning and reporting, including deliberative community engagement practices.

Councillors have worked together to articulate and represent the voice of their constituents and communities, and provide recommendations and direction, while being mindful to responsibly manage resources. They will be engaging with the community through various activities during the exhibition of the *Proposed Plans*.

Council's *Proposed Plans* will be available and promoted for community feedback from 20 April to 12 May 2023. Further details available on Council's website: <https://yoursay.southgippsland.vic.gov.au>.

The community feedback will be analysed and incorporated into the final *Proposed Plans* and will be considered for adoption at the 28 June 2023 Council Meeting.

## **RESOURCES / FINANCIAL VIABILITY**

The Budget and Financial Plan are key strategic documents that outline the direction and resources required to achieve the Council's direction in the Council Plan and the range of services provided. The Financial Plan provides an outlook of Council's financial position for at least the next ten years.

## **RISKS**

The risk of not adopting these Plans by the statutory deadline of 30 June is that Council will suffer reputational damage and be constrained in its ability to raise the necessary funds to carry out its functions and meet its objectives.

## **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

## **ATTACHMENTS**

*Attachments are available on Council's website at the following [LINK](#).*

1. Proposed Long Term Financial Plan 2023/24 - 2032/33 [3.1.1 - 41 pages]
2. Proposed Budget 2023/24 – 2026/27 [3.1.2 - 100 pages]

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Long-Term Financial Strategies

Proposed Budget

Proposed Financial Plan

Council Plan

### **Legislative Provisions**

Local Government Act 2020

### 3.2. INSTRUMENT OF DELEGATION - MEMBERS OF STAFF (S6)

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

*Objective - Leading with Integrity*

*Ensuring that the authorising environment for Council staff to undertake their duties is up to date and that no Council staff undertake duties that they are not authorised to perform is in keeping with Leading with Integrity.*

#### EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council adopts an updated Instrument of Delegation to Council Staff to reflect improvements recommended through legal advice and positional changes to Council's organisational structure.

#### RECOMMENDATION

**That Council resolves that, in the exercise of the powers conferred by s.11(1) of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation (Instrument of Delegation) Council to Members of Staff (Attachment [3.2.1]):**

- 1. There be delegated to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in (Attachment [3.2.1]) the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument of Delegation;**
- 2. The Instrument of Delegation Attachment [3.2.1] to staff comes into force immediately that the common seal of Council is affixed to the Instrument of Delegation;**
- 3. On the coming into force of the Instrument of Delegation (Attachment [3.2.1]): all previous delegations from Council to members of Council staff (other than the Instrument of Delegation to the Chief Executive Officer) are revoked; and**
- 4. The duties and functions set out in the Instrument of Delegation Attachment [3.2.1]: must be performed, and the powers set out in the**

**Instrument of Delegation must be executed, in accordance with any guidelines or policies that Council may adopt.**

## **RESOLUTION**

**MOVED:** Councillor Gilligan

**SECONDED:** Councillor Rae

**That Council resolves that, in the exercise of the powers conferred by s.11(1) of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation (Instrument of Delegation) Council to Members of Staff (Attachment [3.2.1]):**

- 1. There be delegated to the members of Council staff holding, acting in or performing the duties of the officers or positions referred to in (Attachment [3.2.1]) the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument of Delegation;**
- 2. The Instrument of Delegation Attachment [3.2.1] to staff comes into force immediately that the common seal of Council is affixed to the Instrument of Delegation;**
- 3. On the coming into force of the Instrument of Delegation (Attachment [3.2.1]): all previous delegations from Council to members of Council staff (other than the Instrument of Delegation to the Chief Executive Officer) are revoked; and**
- 4. The duties and functions set out in the Instrument of Delegation Attachment [3.2.1]: must be performed, and the powers set out in the Instrument of Delegation must be executed, in accordance with any guidelines or policies that Council may adopt.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **REPORT**

The allocation of delegations to the Chief Executive Officer or other employees contributes to the effective functioning of Council. It is important to update delegations to reflect changes in personnel / legislation and improvements recommended by legal advisors to ensure decisions made are valid. The current version of the Instrument of Delegation has been in place since 28 October 2020.

The updated Instrument of Delegation (**Attachment [3.2.1]**) has been edited in line with the recommended changes by Maddocks Lawyers as well as positional changes to Council's organisational structure and delegations.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Nil

## **RESOURCES / FINANCIAL VIABILITY**

Nil

## **RISKS**

Failure to update an Instrument of Delegation could result in the decisions of delegated Officers being declared invalid or unenforceable.

## **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

## **ATTACHMENTS**

*Attachments are available on Council's website at the following [LINK](#).*

1. S6 Instrument Of Delegation Members of Staff Final - April 2023 [**3.2.1** - 113 pages]

## **REFERENCE DOCUMENTS**

**Council's Good Governance Framework**  
Pillar 4. Structure, Systems & Policies

**Legislative Provisions**  
Local Government Act 2020

### 3.3. DOCUMENTS SEALED, CONTRACTS VARIED, AWARDED OR EXTENDED BY CEO - 13 FEBRUARY 2023 TO 12 MARCH 2023

Directorate:	Performance and Innovation
Department:	Financial Strategy, Risk and Procurement

#### Council Plan

*Objective - Leading with Integrity*

*Council's transparency of financial decisions made and overall financial sustainability is strengthened by regularly reporting on documents sealed, contracts awarded, varied or extended under the CEO's delegation.*

#### EXECUTIVE SUMMARY

This report documents the following actions undertaken by the Chief Executive Officer (CEO) which occurred during the period from 13 February 2023 to 12 March 2023. Council's *Procurement Policy (C32)* requires the CEO to report to Council any of the following actions undertaken to the next appropriate Meeting:

- Documents sealed;
- Contracts awarded after a public tender process within the CEO's delegation; and
- Contracts varied or extended by the CEO which exceeded the CEO's delegation.

#### RECOMMENDATION

**That Council receives and notes this report.**

#### RESOLUTION

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Davies

**That Council receives and notes this report.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

### Documents Sealed

Under the *Local Government Act 2020* (the Act), s.14 states that each Council is a body corporate with perpetual succession; and must have a common seal. Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing include agreements, leases or any other contractual or legally binding document that binds Council to another party.

Use of the Local Law No. 2 2020, Part 9, clause 107(h)(iv) – Common Seal of Council, states that if the Chief Executive Officer (CEO) uses the Common Seal in a manner prescribed by sub-clause (c), this means on the authority of a Council resolution, then Council must be advised of such use on a regular basis.

In accordance with the Local Law No. 2 2020, Part 9, clause 107(h)(iv), the following are presented to Council as documents sealed during the period from 13 February 2023 to 12 March 2023.

Nil

Section 173 Agreements are prepared in accordance with s.173 of the *Planning and Environment Act 1987*, allowing Council to enter into agreements relating to the use or development of land, conditions to which the land may be used or developed or any matter that relates to planning or planning schemes in Victoria. Section 174 of the *Planning and Environment Act 1987* requires that such an agreement be under seal and must bind the owner to the covenants specified in the agreement.

In accordance with the Local Law, Instrument of Delegation and *Planning and Environment Act 1987*, the following are presented to Council as documents sealed during the period from 13 February 2023 to 12 March 2023.

1. Section 173 Agreement between South Gippsland Shire Council and the owner of 5 Barnes Road, Kardella South (6 Wynnes Road, Kardella South) for the use and development of a dwelling and group accommodation, development of a shed. Seal applied 1 March 2023.

### Contracts Awarded, Varied or Extended

In accordance with Council's Procurement Policy where contracts are awarded under delegation, varied or extended, they are required to be reported to the next practicable Council Meeting.

1. Contracts awarded by Council after a public tender process, signed by the CEO between 13 February to 12 March 2023.



- a. Nil.
2. Contracts awarded after a public tender process within the CEO's delegation between 13 February to 12 March 2023.
  - a. CON/343 for the Construction of Retaining Wall at Mirboo North Transfer Station was awarded to Hugh Patrick Pty Ltd, trading as BJs Earthmoving signed by the CEO 24 February 2023.
3. Contract variations approved by the CEO between 13 February to 12 March 2023.
  - a. Nil
4. Contract extensions approved by the CEO between 13 February to 12 March 2023.
  - a. Nil

#### **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

#### **ATTACHMENTS**

Nil

#### **REFERENCE DOCUMENTS**

##### **Council's Good Governance Framework**

Pillar 3. Decision Making

##### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Governance Rules (C82)

Local Law No. 2 2020, Processes of Municipal Government (Meeting Procedures and Common Seal)

Procurement Policy (C32)

##### **Legislative Provisions**

Local Government Act 1989

Local Government Act 2020

Planning and Environment Act 1987

### 3.4. SUMMARY OF STRATEGIC BRIEFINGS - 13 FEBRUARY 2023 TO 12 MARCH 2023

Directorate:	Performance and Innovation
Department:	Governance

#### Council Plan

*Objective - Leading with Integrity*

*Council's transparency and governance is strengthened by regularly reporting on summaries of briefings held, that assist Council to make informed decisions in Council Meetings on behalf of the community.*

#### EXECUTIVE SUMMARY

Council, in its requirement to give effect to the overarching governance principles and supporting principles of the *Local Government Act 2020*, section 9(2)(i), s.9(3)(b) and s.58, aims to assist the transparency of Council decisions, actions and information through the provision of public summaries of information. The types of information summarised are usually strategic briefing and public presentations to items that will subsequently come before Council for a future decision. The information is summarised so that it is accessible, understandable, relevant and timely.

The information provided in this report is recorded from sessions held between 13 February and 12 March 2023.

#### RECOMMENDATION

**That Council receives and notes this report.**

#### RESOLUTION

**MOVED:** Councillor Schelling

**SECONDED:** Councillor Williams

**That Council receives and notes this report.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

Meeting Title	Details
<b>Wednesday 15 February 2023</b>	
<b>Council Meeting Agenda Topic Discussion – 15 February 2023</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, John Schelling, Clare Williams and Adrian Darakai.</p> <p><b>Conflict of Interest:</b> Councillor John Schelling has declared a general conflict of interest and a bias in proposed Agenda Item section 2.5. Petition Response: Reinroduce the Lord's Prayer at the Beginning of each Council Meeting as he has signed the Petition considered in this report.</p> <p>Councillor John Schelling has declared a material conflict of interest in Confidential Agenda Item section 10.1. Community Leadership Program as a family member is an applicant under consideration for membership to the Program.</p> <p>Ms Kerryn Ellis, Chief Executive Officer has declared a material conflict of interest in Confidential Agenda Item 10.3. PERSONAL INFORMATION - Appointment of Independent Chair - CEO Employment and Remuneration Committee, as the matter relates directly to her role.</p> <p>The matters listed in each declaration were not discussed in the session.</p>
<b>Foster Structure Plan</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, John Schelling, Clare Williams and Adrian Darakai.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>General Local Laws Review</b>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, Michael Felton, John Schelling, Clare Williams and Adrian Darakai.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<b>Wednesday 1 March 2023</b>	
<b>Industrial Land Supply Strategy</b>	<b>Councillors Attending:</b>

Meeting Title	Details
	<p>Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p><b>Conflict of Interest:</b></p>
<p><b>Developer Contribution</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<p><b>Advocacy Update</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Nathan Hersey, Jenni Keerie, John Schelling, Clare Williams and Adrian Darakai.</p> <p><b>Conflict of Interest:</b> Nil disclosed.</p>
<p><b>Wednesday 8 March 2023</b></p>	
<p><b>Council Meeting Agenda Topic Discussion – 15 March 2023</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling and Clare Williams.</p> <p><b>Conflict of Interest:</b> Councillor John Schelling has a general conflict of interest in Agenda Item 5.1. Planning Application 2021/135 - Proposed Use and Development of a Service Station and Convenience Restaurant at 8418 South Gippsland Highway in Korumburra as his employer is a competitor of the applicant. The matter was not discussed in this session.</p>
<p><b>Planning Application 2021/135 - Proposed Use and Development of a Service Station and Convenience Restaurant at 8418 South Gippsland Highway in Korumburra</b></p>	<p><b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie and John Schelling.</p> <p><b>Conflict of Interest:</b> Councillor John Schelling has a general conflict of interest in Agenda Item 5.1. Planning Application 2021/135 - Proposed Use and Development of a Service Station and Convenience Restaurant at 8418 South Gippsland Highway in Korumburra as his employer is a competitor of the applicant. Cr Schelling removed himself from the Council Briefing when the matter was discussed.</p>

Meeting Title	Details
<b>Organisational and Financial Performance Report - July 2022 to December 2022</b>	<b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling and Clare Williams. <b>Conflict of Interest:</b> Nil disclosed.
<b>2023/24 Budget/Council Plan</b>	<b>Councillors Attending:</b> Mohya Davies, Scott Rae, Sarah Gilligan, Nathan Hersey, Jenni Keerie, John Schelling and Clare Williams. <b>Conflict of Interest:</b> Nil disclosed.

### STAFF DISCLOSURE

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

### ATTACHMENTS

Nil

### REFERENCE DOCUMENTS

#### **Council's Good Governance Framework**

Pillar 3. Decision Making

#### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Governance Rules (C82)

Public Transparency Policy (C75)

#### **Legislative Provisions**

Local Government (South Gippsland Shire Council) Act 2019

Local Government Act 1989

Local Government Act 2020

## 4. OBJECTIVE - SUSTAINABLE GROWTH

### 4.1. DEVELOPMENT PLAN OVERLAY DPO5 - 18A DAVIS STREET AND 32 GRUNDY AVENUE NYORA – FUTURE SUBDIVISION 60 RESIDENTIAL LOTS

Directorate:	Economy and Community
Department:	Planning and Building Services

#### Council Plan

##### *Objective – Sustainable Growth*

*A Development Plan for the subject land must be assessed against the Development Plan Overlay – Schedule 5 to ensure the application is consistent with those requirements.*

#### EXECUTIVE SUMMARY

The purpose of this report is to determine an application for a Development Plan (DP) on the land known as 18A Davis Street and 32 Grundy Avenue Nyora. The subject land is affected by the Development Plan Overlay – Schedule 5 (DPO5) – this Schedule is titled the *Nyora Residential Development Transition Area (Attachment [4.1.1])*. A planning permit application for subdivision of the land can only be considered once a Development Plan has been approved for the land.

The proposed Development Plan herein has been prepared on four separate titles of land (with a total area of approximately 5.925 hectares), bounded by Davies Street to the west and Grundy Avenue to the east. The land is zoned General Residential Zone (GRZ), and contains no additional overlays beyond the DPO5 (**Attachment [4.1.2]**).

The DPO5 requires that any planning permit granted must be generally in accordance with the Development Plan, meaning the subdivision application must follow the Development Plan approval. An indicative subdivision layout plan has been submitted for information purposes only (**Attachment 4.1.3**). This plan will then form the basis for a planning permit application seeking approval to subdivide the land into residential lots in accordance with proposed development plan, should it be approved by Council.

The Development Plan was exhibited, and four (4) submissions were received. The key concerns raised in the submissions included:

- Loss of the court bowl at end of Cornishs Road, for the construction of a connecting road;
- Increase in traffic as a result of development;
- Safety concerns with increase of vehicles using Cornishs Road;
- Pedestrian safety with opening up Cornishs Road, including children currently playing on the current dead-end road;
- Preference to retain Cornishs Road as a court;
- All lots should have access from Davis Street only to retain the quiet court; and
- Stormwater runoff and flooding concerns to adjoining properties.

It is considered that the Development Plan satisfies the requirements of the DPO5, and is generally in accordance with its provisions. This report recommends Council adopt the Development Plan following consideration of the Officers assessment against the DPO5 requirements (**Attachment [4.1.4]**) and the submissions made. The proposed Development Plan that would form the basis of any approval is shown at **Attachment [4.1.5]**.

#### **RECOMMENDATION**

**That Council adopts the Davis Street and Grundy Avenue Development Plan for the land at 18A Davis Street and 32 Grundy Avenue, Nyora.**

#### **RESOLUTION**

**MOVED:** Councillor Felton

**SECONDED:** Councillor Schelling

**That Council adopts the Davis Street and Grundy Avenue Development Plan for the land at 18A Davis Street and 32 Grundy Avenue, Nyora.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## REPORT

The subject land at 18A Davis Street and 32 Grundy Avenue Nyora (**Attachment [4.1.2]**) is covered by the Development Plan Overlay - Schedule 5 – Nyora Residential Development Transition Area (DPO5) provisions of the South Gippsland Planning Scheme.

The stated purpose of a DPO as noted at Clause 43.04 of the Planning Scheme is to:

*To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.*

*To exempt an application from notice and review if it is generally in accordance with a development plan.*

The DPO5 Schedule to the overlay does not contain any specific objective, however, the general intent is to ensure that the development of the land occurs in a coordinated and orderly manner. In this respect, consideration needs to be given to the overall design response in the context of the site and adjoining land, the road and pedestrian network, provision of stormwater and drainage infrastructure, provision of open space, as well as consideration of community infrastructure provision and/or funding (i.e. developer contributions).

### South Gippsland Planning Scheme

The Development Plan Overlay provisions of the Scheme states at Clause 43.04-1 that:

*A permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority.*

Clause 43.04-4 further states that:

*The development plan may be amended to the satisfaction of the responsible authority.*

**Attachment [4.1.4]** contains a table of assessment of the proposed Development Plan against the DPO5 provisions. While some matters remain outstanding (such as the final design of the access from Davis Street), these are able to be addressed as part of the planning permit stage. It is considered that the Development Plan satisfies the requirements of the DPO5, and is generally in accordance with its provisions.



The primary issues in assessing whether the Development Plan is satisfactory having regard to the DPO5 provisions are summarised below:

### ***Road and Pedestrian Network***

A traffic and transport assessment was submitted as part of the Development Plan (DP) application. The internal road layout provides a series of roads and court bowls within the development. The cross sections are of sufficient width to facilitate the provision of on-street parking, pedestrian paths and bicycle paths. The street network ensures safe movement and ease of access, both internally and with surrounding uses.

Davis Street is controlled by Department of Transport (DoT) as part of the overall assessment of the DP application. DoT were concerned with the three access points into the subdivision amongst other matters. The applicant subsequently amended the DP to address this concern, and there is now only one main access point along Davis Street. Whilst DoT have identified some outstanding items that will need to be addressed at the permit subdivision stage, overall, they are satisfied with the general layout of the Development Plan application, and have no objection to its approval in current form.

Road access is provided through the site to allow for local traffic access to the lots. The design does not allow for vehicle movements through the site between Grundy Avenue and Davis Street, since this would create a poor urban design outcome and promote an unwanted non-local thoroughfare.

This varies from the Nyora Development Strategy in its approach to the thoroughfare but was resolved in agreement with Council on the most appropriate road network, and informed the ultimate layout plan. The Traffic report demonstrates that the proposed residential subdivision is considered appropriate from a traffic engineering perspective.

Pedestrian and bicycle connectivity is significantly improved through the DP, and the internal access roads and open space will facilitate movements for pedestrians and cyclists between Davis Street and Grundy Avenue. The internal road layout supports local traffic only, and will restrict vehicle movements through the site therefore increasing safety and promoting pedestrian and cycle movement.

### ***Stormwater / Drainage***

A Stormwater Management Strategy (SWMS) has been prepared in support of the Development Plan. The SWMS demonstrates how the proposed development can meet the Urban Stormwater Best Practice Environmental Management Guidelines (BPEMG). Stormwater discharges from the proposed

subdivision shall be to the satisfaction of Melbourne Water, South Gippsland Shire Council and other relevant authorities.

### ***Off-site Infrastructure Provision / Developer Contribution***

A developer contribution plan was submitted as part of the Development Plan documents.

The Contributions report provides for:

- Improved health conditions of the municipality by providing for opportunities for walking and cycling within the township.
- Improved environmental conditions by providing for a shared path connection that will allow for trip modes to shopping and recreation facilities to be diversified and include non-motorised means of transport.

The Development Contributions will be provided by way of a 2.5 metre wide Shared Path Network extending along Davis Street from Cornishs Road to the south to the northern extent of the super lot. An additional 75 metres of shared path will be provided at a location to be later determined by Council that will connect the land to the Nyora commercial centre.

The developer contributions plan will form part of the approved Development Plan, and further assessment and conditions will be placed on the subdivision permit application.

### ***Environment***

A flora and fauna assessment was submitted to determine whether any native vegetation occurred on the site or within abutting roadways where works may be required. The investigation provided information on the extent and condition of native vegetation in the study area according to Victoria's Biodiversity assessment guidelines (DEPI 2013), as well as any potential impacts on flora and fauna matters listed under the state *Flora and Fauna Guarantee Act 1988* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*. The report details the implications under the relevant national, state and local legislation and policy frameworks.

The study area was identified to support well-draining sedimentary soil on a gently undulating slope. A small dam was present within the Davis Street property and the closest major watercourse was the Bass River, located some 2.3 kilometres south of the site. Both properties would have supported horses and or livestock in the past and it was established that the majority of the vegetation consisted of planted and self-introduced recruited vegetation. Fauna habitat within the study area comprises of trees and shrubs, grazing paddocks and a farm dam. The habitat has been highly modified from its original state

and it was considered suitable for common occurring native fauna and introduced fauna. The study area is fragmented from natural occurring reserves in the region.

The proposed development will result in removal of native remnant vegetation and scattered trees to facilitate the orderly delivery of the site. As part of the subdivision permit application, appropriate offsets will be secured to compensate for the removal of native vegetation. General offsets must be located within the Port Phillip and Westernport Catchment Management Area or the South Gippsland Shire.

It was resolved no listed flora or fauna species, or ecological communities will be impacted by the proposed development. A Landscape Master Plan will be prepared at the subdivision permit application stage which will provide the proposed road networks, open space reservation and will implement an appropriate landscape theme in accordance with Council's preferred species list.

The report also outlined that Giant Gippsland Earthworm are generally found in the deep blue-grey-clay like soils over cretaceous rocks in the western Strzelecki Ranges and in the alluvial soils in depositional zones to the north and south-west. Considering different soil types occur at the subject site to where the Giant Gippsland Earthworm has been recorded in the surrounding region, it is concluded that there is no suitable habitat on the subject site and is unlikely to occur.

### ***Urban Design***

The Development Plan will provide for over 60 residential lots with a variety of sizing, and identifies the proposed internal road network, linkages to the existing road network. The Development Plan is made up of four stages with stage 1 and 2 facing Davis Street and Cornishs Road, providing 44 residential lots.

Stage 3 of the Development Plan is the lot that faces Grundy Avenue, and has separate ownership to the other allotments. This lot has outlined the proposed road network in a court bowl configuration, with the public open space connecting to stages 1 and 2 which provides for a pedestrian connectivity to the overall subdivision and Development Plan.

Stage 4 of the Development Plan has been reserved for a medium density housing development site which will provide for a common property access from Davis Street and housing sites to be a minimum size of 400 square metres. Future development on this lot will require future planning approval and

an annotation is on the Development Plan application outlining the purpose of the lot and noting future planning approval is required.

The subject land is located centrally within the Nyora township. The proposed lot yield is generally consistent with conventional lot sizes in non-metropolitan areas and will provide for residential sized lots that are in keeping with the character of the existing Nyora township. Further, the lot yield is generally consistent with the density outlined in the Nyora Development Strategy for precinct B.

### ***General***

The Development Plan proposes a centrally located open space reservation which comprises an area of 2049m<sup>2</sup>. The open space is partly located over two allotments, with 1111m<sup>2</sup> being contributed from 18A Davis Street and 938m<sup>2</sup> from 32 Grundy Avenue.

The proposed public open space would provide a reservation for both the future residents and existing nearby residents to access a new local public space and would improve connectivity and permeability through the site. It has been located on the highpoint of the sites to take advantage of the view lines to the west and south.

The street network will facilitate movement between Davis Street and Grundy Avenue for pedestrians and cyclists only, and specifically has been resolved to restrict vehicle movements.

The Development Plan is in keeping with the character of the Nyora township and creates a layout plan that integrates with the surrounding residential area. The lot layout improves connectivity and permeability for pedestrian and cycle movements as well as provide appropriate infill development to allow Nyora to grow.

### **CONSULTATION / COMMUNITY ENGAGEMENT**

Exhibition and approval of the Development Plan is an important stage in the approvals process for the subdivision of the subject land. The DPO provisions state that where a planning permit application accords with the requirements of an approved Development Plan, the permit application is exempt from notice (advertising) and review (appeal) at VCAT.

This means that once a Development Plan is approved, no further public consultation or engagement is afforded. Council's exhibition of the Development Plan clearly noted this point to make it clear to residents with potential concerns that this Development Plan assessment process was the time to make a submission.

### ***Objections/Submissions***

Submissions received during the exhibition of the Development Plan are located at (**Confidential Attachment [12.1.1]**). Issues raised during the exhibition process are summarised below with responses to each matter:

- Keep the court bowl at end of Cornishs Road and not make into a road;
- Safety concerns with increase of vehicles using Cornishs Road;
- Pedestrian safety with opening up Cornishs Road;
- Children currently play in the court bowl area don't want to lose that;
- Increase in traffic;
- Keeping Cornishs Road closed and kept as a court; and
- Currently a quiet court the development will ruin this.

Response:

*The Nyora Development Strategy discusses future road and intersections for the town. Part of the strategy discusses keeping Cornishs Road and Davis Street only available for emergency vehicles and pedestrians only. While the court bowl will need to be removed to allow the creation of the road and connectivity to the proposed lots, Cornishs Road as a whole will still remain closed from Davis Street; this should aid in reducing traffic movements and ensure safety is maintained and the street still remains quiet and used generally for residents only.*

*As the lots are proposed to face Cornishs Road the road will need to be developed to create access to these new infill lots which will require the extension to the road. This is not uncommon for residential subdivisions while it is acknowledged that the future development will lead to increased traffic. The existing road network in the locality is considered sufficient to accommodate the increase in traffic.*

*At the subdivision permit application stage restrictive permit conditions will be required to ensure any intersection upgrades and change in traffic flow meet the relevant safety standards.*

- Stormwater runoff and flooding concerns to adjoining properties;

*A Stormwater Management Plan has been submitted as part of the Development Plan Application which demonstrates the development is capable of providing a detention basin and measures to ensure there is no increase to*

*stormwater runoff to the adjoining properties and this should not increase any flooding impacts.*

***External Referral Comments (noting that any future planning permit application will require formal referral to these agencies):***

- CFA – no response.
- Department of Environment, Land, Water and Planning (DELWP) – support (subject to a referral at the subdivision permit application stage).
- Melbourne Water – support (subject to a referral at the subdivision permit application stage).
- Department of Transport (DoT) - support (subject to a referral at the subdivision permit application stage).

***Internal:***

- Property & Open Space – consent to the location of the public open space.
- Engineering and Infrastructure - overall satisfied with the information submitted to meet the DPO5 requirements; will require additional information at the subdivision permit application stage.

**RESOURCES / FINANCIAL VIABILITY**

There are no financial implications for Council directly related to the assessment and approval of the development plan.

There are implications in relation to township growth.

**RISKS**

Careful consideration of the Development Plan reduces the risk posed to Council from ongoing maintenance and management of development infrastructure in the subdivision.

**STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

**ATTACHMENTS**

*Attachments are available on Council's website at the following [LINK](#).*

1. Clause 43.04 Development Plan Overlay - Schedule 5 – Nyora Residential Development Transition Area [4.1.1 - 3 pages]
2. Location Map and Planning Property Report - Development Plan - DPO5 - 18A Davis Street and 32 Grundy Avenue Nyora [4.1.2 - 2 pages]

3. Subdivision Layout Plan - DPO5 - 18A Davis Street and 32 Grundy Avenue Nyora [4.1.3 - 1 page]
4. Development Plan Overlay - Officer Assessment – DPO5 - 18A Davis Street and 32 Grundy Avenue Nyora [4.1.4 - 10 pages]
5. Proposed Development Plan - DPO5 - 18A Davis Street and 32 Grundy Avenue Nyora [4.1.5 - 1 page]

### CONFIDENTIAL ATTACHMENTS

The consideration of confidential information in a closed session of Council is in accordance with s.66(2)(a) and s.66(5)(a) and (b) of the *Local Government Act 2020*.

**Confidential Attachment [12.1.1] – PRIVATE PERSONAL INFORMATION - Submissions - Development Plan Overlay DPO5 - 18A Davis Street and 32 Grundy Avenue Nyora – future subdivision 60 residential lots** – is designated confidential information pursuant to the Local Government Act 2020, s.3(1)(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

The grounds for designation have been made to protect the privacy of submitters.

### REFERENCE DOCUMENTS

#### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

#### **Council Policy / Strategy / Plans**

*Documents are available on Council's website at the following [LINK](#).*

Annual Budget

Council Plan 2020-2024

#### **Legislative Provisions**

Aboriginal Heritage Act 2006

Country Fire Authority Act 1958

Environment Protection Act 1970

Environment Protection Act 1994

Local Government Act 1989

Local Government Act 2020

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

## **5. NOTICES OF MOTION AND/OR RESCISSION**

Nil

## **6. COUNCILLOR REPORTS**

### **6.1. REQUESTS FOR LEAVE OF ABSENCE**

Nil

### **6.2. COUNCILLOR UPDATES**

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**Councillor Adrian Darakai, addressed Council by reporting that he has continued to engage with the community at a variety of events that include site visits re: farms, roads and attendance at social movie nights organised through local community groups and meeting with different organisations.**

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**Councillor Michael Felton, addressed Council by reporting on attendance at or made comments on:**

- **Nyora Community Plan meeting at the Nyora Hall on the 4 April, he noted that it was well attended. The next meeting will be held at the Hall on Tuesday 16 May at 6.30pm.**
- **Opening of the Yellow Brick Road business in Leongatha.**
- **Meenyan Progress Association meeting who are also working on their community plan.**
- **Upcoming ANZAC day ceremonies summarised:**
  - **Nyora – 6.00am**
  - **Korumburra – 6.00am, 10.30am at Coleman Park.**
  - **Poowong - 12noon**
  - **Fish Creek – 10.00am**
  - **Foster – 11.00am**
  - **Loch – 10.00am**
  - **Leongatha - 10.45am**
  - **Meenyan – 9.00am**
  - **Mirboo North – 6.00am, 10.45am.**
  - **Mt Eccles – 2.30pm**
  - **Toora – 6.00am, 11.00am**
  - **Welshpool - 9.30am**
  - **Tarwin Lower – 12noon**



**Councillor John Schelling, addressed Council by reporting on attendance at or made comments on:**

- **Stakeholder Breakfast, it was great to meet with local business people followed by the Jobs Expo.**
- **South Gippsland Shire Council Leadership Program, event held at Gurneys Cidery.**
- **Mirboo North Soccer Club Annual General Meeting (AGM).**
- **Careers day with year 10 VCAL students.**
- **Visit with Lloyd McKenzie Retirement homes at Linton Court.**
- **Opening of the Nyora to Loch rail trail, another well attended event.**
- **Mirboo North Community Foundation Book Launch, Cr Schelling provided a copy of the book to the CEO for the Council's library. He highlighted the power of a gift in a will, and mentioned local donations and the difference that has made to the betterment of the community.**
- **Sandy Point Art Show**
- **Opening of the Yellow Brick Road business in Leongatha.**

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**Councillor Sarah Gilligan, addressed Council by reporting on attendance at or made comments on:**

- **Opening of the Venus Bay Skate Park.**
- **Sandy Point Arts Show**
- **Walkerville Rate Payers AGM.**
- **3<sup>rd</sup> of 4 Energy Resilience Project Workshops Venus Bay / Tarwin Lower.**
- **Strategic Risk Workshop held at Council.**
- **3 day conference by the Australian Coastal Association on National coastal houses.**

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**Councillor Mohya Davies, addressed Council by reporting on attendance at or made comments on:**

- **South Gippsland Business Breakfast.**
- **Jobs Expo, Leongatha**
- **Victorian Local Government Grants Commission meeting at Council.**
- **Community Leadership Launch event**
- **Yanakie Passata day**
- **Councillor compliance audit interview**
- **Community café launch**
- **Community garden gathering at Manna Gum community garden**
- **Deer Forum in Meeniyah**
- **Toora Community Action Team**
- **Walking tour of Coal Creek**
- **Lloyd McKenzie Retirement homes at Linton Court.**
- **Victorian Local Government Association (VLGA) conference in Melbourne**
- ***Ready Communities* in Foster meeting**

- **Gunaikurnai Land and Water Corporation Nanjet Project at Yanakie meeting.**
  - **Sandy Point Arts Show**
  - **U3A AGM noting that there are over 200 members in Foster.**
- 

**Councillor Scott Rae, addressed Council by reporting on attendance at or made comments on:**

- **Victorian Government Grants Commission meeting**
  - **Yanakie Passata day**
  - **Wildflower Café at Gipps TAFE and highly recommended attending.**
  - **Land Care Deer Forum at Meeniyau.**
  - **Reopening of the Port Welshpool and District Maritime Museum**
  - **Gippsland Freight Infrastructure Masterplan launch in Morwell.**
- 

**Councillor Adrian Darakai left the Council Chambers at 2.51pm and did not return to the Council Meeting.**

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**Councillor Jenni Keerie, addressed Council by reporting on attendance at or made comments on:**

- **Meeniyau Progress Association meeting.**
  - **Welcome opportunities for informal gatherings that provide opportunities to explore particular issues of concern.**
  - **ANZAC day services in Poowong, encouraged attendance at the dawn service.**
  - **Eucalyptus day events at a property at Mardan.**
  - **Korumburra Botanic Park, congratulations on the recent works carried out.**
  - **20th Birthday celebration of the Combined Probus Club of Coal Creek gathering.**
  - **Combined Churches Good Friday service.**
  - **Visit by the State and Federal members for Local Government and the opportunity of being able to talk about the work Council is doing.**
- 

**Deputy Mayor, Councillor Clare Williams, addressed Council by reporting on attendance at or made comments on:**

- **Canberra visit meeting with 10 different Ministers and advocating for South Gippsland, sharing our story on how great we are down and the challenges and opportunities South Gippsland face.**
  - **Speaking in front of 770 year 8 students at Gumbuya World for Live for Life, mental health awareness program for our youth.**
-

- **Acceptance as an Executive Committee Member to the Australia Local Government Women's Association in Victoria which encourages women to participate in local government.**
- 

**Mayor, Councillor Nathan Hersey, addressed Council by reporting on attendance at or made comments on:**

- **Loch long lunch**
- **Poowong town visit to discuss ongoing matters.**
- **Canberra visit to advocating for increased funding and improved infrastructure for South Gippsland and commented that South Gippsland has a bright future.**
- **The next planned advocacy trip is to Spring Street to continue to discuss with state Ministers and members the needs that we have in South Gippsland.**
- **Visit by the State and Federal members for Local Government and the opportunity of being able to talk about the work Council is doing.**
- **Opening of the Nyora to Loch rail trail.**

## 7. URGENT OR OTHER BUSINESS

There are two basic parts to this section of the Agenda:

### 1. Urgent Business

Normally no motion should be debated by Councillors unless the matter is already included as an item on the Agenda. However, in some circumstances it is possible to raise urgent motions.

Council's Governance Rules 2020 (clause 22 - Urgent Business) adopted on 19 October 2022, allows for where a situation has not been provided for under the Governance Rules, the Council may determine the matter by resolution.

Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next Council Meeting or by Officers under delegation.

It is necessary for the Councillor wishing to raise a matter of urgent business to raise a motion similar to the following:

'That consideration of (the issue) be dealt with as a matter of urgent business and Councillor....be allowed a 'short period' to indicate the reason(s) why the matter should be considered as a matter of urgent business.' If the Chairperson accepts the motion as meeting the urgent business criteria, normal meeting procedures in Council's Governance Rules 2020 (clause 22) will apply.

If the motion to accept the item as a matter of urgent business is passed by Council, the motion relating to the specific issue can then be put and debated in the normal way.

### 2. Other Business

This provides an opportunity for Councillors to raise items of general interest to the Council and the community. It may relate to an up and coming event or the outcomes of a recent meeting with a Minister etc.

**Nil**

## 8. PUBLIC QUESTIONS

### 8.1. PETITIONS AND JOINT LETTERS

Petitions and Joint Letters are written requests that have been signed by a number of community members. According to the *Governance Rules (C82)*, *clause 57*, members of the community may submit a valid petition or joint letter to a Councillor or to Council addressed to the Chief Executive Officer.

At the Meeting a petition or joint letter is presented, Council will consider a motion to receive it, the matter itself will not be considered unless determined as urgent business.

The Councillor presenting the petition or joint letter is responsible for ensuring that they are familiar with the contents and purpose of the petition or joint letter and that it does not contain language disrespectful to Council.

The requirements of the lead petitioner are detailed in the *Governance Rules (C82)*, *clause 57*.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

Nil

## 8.2. ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

Answers to previous questions taken on notice at a former Council Meeting, are included in the Minutes of this Meeting.

Background material submitted with a question will not be recorded in the Council Meeting Minutes.

A submitter will receive a letter outlining the response to a question after the Minutes have been produced.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

**Questions received from Mr John McCombe at the 15 March 2023 Council Meeting were taken on notice. Following consideration of the questions it was determined that in accordance with clause 56.10(c) of the *Governance Rules*, the questions related to subject matter already answered. The submitter was advised of the response on 4 April 2023.**

### 8.3. SUBMITTED PUBLIC QUESTIONS

All community member questions for Council Meetings are to be written and submitted to the Governance Team by 9.00am on the Monday morning preceding the Council Meeting to allow time for a response to be prepared, where possible, for the Council Meeting. All reasonable attempts will be made to answer pre-submitted questions at the Meeting. When further time is required to prepare an answer, questions may be taken on notice and responses will be provided at the next Council Meeting.

On the day of the Meeting, questions on the prescribed form must be received prior to the commencement of the Council Meeting by 2.00pm and placed in the receptacle at the Governance Officers table. These questions will be taken on notice, included in the Minutes and responses provided at the next Council Meeting.

Public Question Time in Council Meetings is to be used for matters that are relevant to the business or functions of Council and are clear and legible.

Questions may not be allowed where the question(s) is deemed to be:

- Related to a matter beyond or outside the powers of Council;
- Trivial or frivolous;
- Defamatory, indecent, abusive or objectionable;
- Derogatory or designed to embarrass a Councillor, a member of Council staff or a member of the community;
- Related to subject matter previously received and responded to;
- Related to a matter already considered and resolved upon by Council;
- Breach Council's confidentiality obligations; and/or
- Illegible, vague or not make sense.

A person may submit a maximum of three (3) questions for any one Council Meeting, this includes a combined total of three (3) questions for related parties or groups. The total word count of all questions submitted is to be 100 words or fewer.

Background material submitted with a question will not be read out or recorded in the Council Meeting Minutes.

The CEO retains the discretion, in consultation with the Mayor, to not refer questions to Council meetings if there is a more effective or appropriate way to respond to the matters raised. Answers to questions from a member of the community who is present in the gallery will be read out at the Council Meeting by the CEO or Mayor.

Source: [Governance Rules \(C82\)](#) – adopted 19 October 2022.

**Council received questions by the commencement of the Council Meeting from Mr John McCombe and they have been taken on notice and will be responded by the next Council Meeting 17 May 2023.**

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**Mr Don Hill submitted written questions, a response is provided in these Minutes.**

**Question 1**

**How many hours were councillors briefed on this year's draft budget and on what dates? Were all councillors in attendance for all briefing sessions?**

**Response**

Council consider a monthly report titled 'Summary of Strategic Briefing' items that will subsequently come before Council for noting. The information is summarised so that it is accessible, understandable, relevant and timely. The item that you refer is titled 'Integrated Planning' and '2023/24 Budget/ Council Plan' in this report and it is included in current and previous months reports. Detail of each entry includes whether or not Councillors were present and if they had declared a conflict of interest.

**Question 2**

**Does Council consider it a conflict of interest for Cr Williams to take part in budget deliberations considering the benefit she receives by way of her interest in her husband's company receiving millions of dollars in capital works projects coinciding with her time on Council? How can such a Councillor make decisions which affect the number of and value of capital works projects that benefits her interests?**

**Response**

Whether a conflict of interest exists will depend upon the circumstances then present. The obligation to disclose a conflict of interest that exists is an obligation of individual Councillors. Your question wrongly assumes that Council has some overriding or corresponding obligation in relation to any conflict of interest. Beyond that it would be inappropriate for Council to comment on any specific circumstances.

All contracts within the CEO's delegation are approved or declined by the CEO. They are reported to Council at the following Council meeting for Council to receive and note.



## 9. CLOSED SESSION

The *Local Government Act 2020* (the Act), section 66 provides that if a council or delegated committee determines that a meeting is to be closed to the public to consider confidential information, the Council or delegated committee must record in the minutes of the meeting that are available for public inspection –

- a) the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of ***confidential information*** in section 3(1); and
- b) an explanation of why the specified ground or grounds applied.

The Act defines ***confidential information*** in s.3(1)(a)-(l), and includes information that may prejudice or impact; commercial negotiations, the security of Council, land use planning, law enforcement, legal privilege, personal information, private commercial information, confidential meeting information, internal arbitration, Councillor conduct panel information and information specified under s.77 of the previous *Local Government Act 1989*.

Once confidential information has been considered and decided in a closed session of a Council Meeting, a further resolution to resume open Council is required.

### RECOMMENDATION

That Council pursuant to section 66(5)(a) and (b) of the *Local Government Act 2020* close the Council Meeting to the public to consider the following confidential information:

1. **Per s.3(1)(g) Agenda item 11.1 Gippswide Kerbside Collection and Transport Tender, designated as private commercial information,**
  - a. **being information provided by a business, commercial or financial undertaking that –**
    - i. **Relates to trade secrets; or**
    - ii. **If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
  - b. **The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractor's tender information submitted for consideration.**

2. **Per s.3(1)(f) Agenda item 11.2 Chief Executive Officer (CEO) Performance Review - April 2023, designated as personal information,**
  - a. **being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;**
  - b. **The grounds for designation have been made to protect the privacy of the Chief Executive Officer's personal information.**

## **RESOLUTION**

**MOVED:** Councillor Rae

**SECONDED:** Councillor Williams

**That Council pursuant to section 66(5)(a) and (b) of the *Local Government Act 2020* close the Council Meeting to the public to consider the following confidential information:**

1. **Per s.3(1)(g) Agenda item 11.1 Gippswide Kerbside Collection and Transport Tender, designated as private commercial information,**
  - a. **being information provided by a business, commercial or financial undertaking that –**
    - i. **Relates to trade secrets; or**
    - ii. **If released, would unreasonably expose the business, commercial or financial undertaking to disadvantage; and**
  - b. **The grounds for designation have been made as the information is deemed commercial-in-confidence to protect the privacy of the contractor's tender information submitted for consideration.**
2. **Per s.3(1)(f) Agenda item 11.2 Chief Executive Officer (CEO) Performance Review - April 2023, designated as personal information,**
  - a. **being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;**
  - b. **The grounds for designation have been made to protect the privacy of the Chief Executive Officer's personal information.**

**CARRIED UNANIMOUSLY**

**The Mayor thanked those attending in the gallery and adjourned the Council Meeting for 5 minutes in order to clear the Council Chambers prior to the Closed Session of the Council Meeting.**

## **10. MEETING CLOSED**

### **NEXT MEETING**

The next Council Meeting open to the public will be held on Wednesday, 17 May 2023 commencing at 2pm in the Council Chambers, Leongatha.

**The Council Meeting closed at 3.15pm.**

**Confirmed this 17<sup>th</sup> day of May 2023**

**Councillor Nathan Hersey, Mayor**